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SENATE BILL 601

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Richard C. Martinez

AN ACT

RELATING TO CORRECTIONS; PROVIDING ELIGIBILITY FOR EARNED
MERITORIOUS DEDUCTIONS TO OFFENDERS SERVING PAROLE TERMS ON OR
AFTER JULY 1, 2004.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 33-2-34 NMSA 1978 (being Laws 1999,
Chapter 238, Section 1, as amended) is amended to read:

"33-2-34. ELIGIBILITY FOR EARNED MERITORIOUS
DEDUCTIONS. --

A. To earn meritorious deductions, a prisoner
confined in a correctional facility designated by the
corrections department must be an active participant in
programs recommended for the prisoner by the classification
committee and approved by the warden. Meritorious deductions
shall not exceed the following amounts:

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1 (1) for a prisoner confined for committing a
2 serious violent offense, up to a maximum of four days per month
3 of time served;

4 (2) for a prisoner confined for committing a
5 nonviolent offense, up to a maximum of thirty days per month of
6 time served;

7 (3) for a prisoner confined following
8 revocation of parole for the alleged commission of a new felony
9 offense or for absconding from parole, up to a maximum of four
10 days per month of time served during the parole term following
11 revocation; and

12 (4) for a prisoner confined following
13 revocation of parole for a reason other than the alleged
14 commission of a new felony offense or absconding from parole,
15 up to a maximum of eight days per month of time served during
16 the parole term following revocation.

17 B. A prisoner may earn meritorious deductions upon
18 recommendation by the classification committee, based upon the
19 prisoner's active participation in approved programs and the
20 quality of the prisoner's participation in those approved
21 programs. A prisoner may not earn meritorious deductions
22 unless the recommendation of the classification committee is
23 approved by the warden.

24 C. If a prisoner's active participation in approved
25 programs is interrupted by a lockdown at a correctional

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1 facility, [he] the prisoner may continue to be awarded
2 meritorious deductions at the rate [he] the prisoner was
3 earning meritorious deductions prior to the lockdown, unless
4 the warden determines that the prisoner's conduct contributed
5 to the initiation or continuance of the lockdown.

6 D. A prisoner confined in a correctional facility
7 designated by the corrections department is eligible for lump-
8 sum meritorious deductions as follows:

9 (1) for successfully completing an approved
10 vocational, substance abuse or mental health program, one
11 month; except when the prisoner has a demonstrable physical,
12 mental health or developmental disability that prevents the
13 prisoner from successfully earning a general education diploma,
14 in which case, the prisoner shall be awarded three months;

15 (2) for earning a general education diploma,
16 three months;

17 (3) for earning an associate's degree, four
18 months;

19 (4) for earning a bachelor's degree, five
20 months;

21 (5) for earning a graduate qualification, five
22 months; and

23 (6) for engaging in a heroic act of saving
24 life or property, engaging in extraordinary conduct for the
25 benefit of the state or the public that is at great expense,

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1 risk or effort on behalf of the [~~inmate~~] prisoner, or engaging
2 in extraordinary conduct far in excess of normal program
3 assignments that demonstrates the prisoner's commitment to
4 [~~rehabilitate himself~~] rehabilitation. The classification
5 committee and the warden may recommend the number of days to be
6 awarded in each case based upon the particular merits, but any
7 award shall be determined by the director of the adult
8 institutions division of the corrections department.

9 E. Lump-sum meritorious deductions, provided in
10 Paragraphs (1) through (6) of Subsection D of this section, may
11 be awarded in addition to the meritorious deductions provided
12 in Subsections A and B of this section. Lump-sum meritorious
13 deductions shall not exceed one year per award and shall not
14 exceed a total of one year for all lump-sum meritorious
15 deductions awarded in any consecutive twelve-month period.

16 F. A prisoner is not eligible to earn meritorious
17 deductions if the prisoner:

- 18 (1) disobeys an order to perform labor,
19 pursuant to Section 33-8-4 NMSA 1978;
20 (2) is in disciplinary segregation;
21 (3) is within the first sixty days of receipt
22 by the corrections department; or
23 (4) is not an active participant in programs
24 recommended and approved for [~~him~~] the prisoner by the
25 classification committee.

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1 G. The provisions of this section shall not be
2 interpreted as providing eligibility to earn meritorious
3 deductions from a sentence of life imprisonment or a sentence
4 of death.

5 H. The corrections department shall promulgate
6 rules to implement the provisions of this section, and the
7 rules shall be matters of public record. A concise summary of
8 the rules shall be provided to each prisoner, and each prisoner
9 shall receive a quarterly statement of the meritorious
10 deductions earned.

11 I. A New Mexico prisoner confined in a federal or
12 out-of-state correctional facility is eligible to earn
13 meritorious deductions for active participation in programs on
14 the basis of the prisoner's conduct and program reports
15 furnished by that facility to the corrections department. All
16 decisions regarding the award and forfeiture of meritorious
17 deductions at such facility are subject to final approval by
18 the director of the adult institutions division of the
19 corrections department or the director's designee.

20 J. In order to be eligible for meritorious
21 deductions, a prisoner confined in a federal or out-of-state
22 correctional facility designated by the corrections department
23 must actively participate in programs that are available. If a
24 federal or out-of-state correctional facility does not have
25 programs available for a prisoner, the prisoner may be awarded

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1 meritorious deductions at the rate the prisoner could have
2 earned meritorious deductions if the prisoner had actively
3 participated in programs.

4 K. A prisoner confined in a correctional facility
5 in New Mexico that is operated by a private company, pursuant
6 to a contract with the corrections department, is eligible to
7 earn meritorious deductions in the same manner as a prisoner
8 confined in state-run correctional facilities. All decisions
9 regarding the award or forfeiture of meritorious deductions at
10 such facilities are subject to final approval by the director
11 of the adult institutions division of the corrections
12 department or the director's designee.

13 L. As used in this section:

14 (1) "active participant" means a prisoner who
15 has begun, and is regularly engaged in, approved programs;

16 (2) "program" means work, vocational,
17 educational, substance abuse and mental health programs,
18 approved by the classification committee, that contribute to a
19 prisoner's self-betterment through the development of personal
20 and occupational skills. "Program" does not include
21 recreational activities;

22 (3) "nonviolent offense" means any offense
23 other than a serious violent offense; and

24 (4) "serious violent offense" means:

25 (a) second degree murder, as provided in

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1 Section 30-2-1 NMSA 1978;

2 (b) voluntary manslaughter, as provided
3 in Section 30-2-3 NMSA 1978;

4 (c) third degree aggravated battery, as
5 provided in Section 30-3-5 NMSA 1978;

6 (d) first degree kidnapping, as provided
7 in Section 30-4-1 NMSA 1978;

8 (e) first and second degree criminal
9 sexual penetration, as provided in Section 30-9-11 NMSA 1978;

10 (f) second and third degree criminal
11 sexual contact of a minor, as provided in Section 30-9-13 NMSA
12 1978;

13 (g) first and second degree robbery, as
14 provided in Section 30-16-2 NMSA 1978;

15 (h) second degree aggravated arson, as
16 provided in Section 30-17-6 NMSA 1978;

17 (i) shooting at a dwelling or occupied
18 building, as provided in Section 30-3-8 NMSA 1978;

19 (j) shooting at or from a motor vehicle,
20 as provided in Section 30-3-8 NMSA 1978;

21 (k) aggravated battery upon a peace
22 officer, as provided in Section 30-22-25 NMSA 1978;

23 (l) assault with intent to commit a
24 violent felony upon a peace officer, as provided in Section
25 30-22-23 NMSA 1978;

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1 (m) aggravated assault upon a peace
2 officer, as provided in Section 30-22-22 NMSA 1978; and

3 (n) any of the following offenses, when
4 the nature of the offense and the resulting harm are such that
5 the court judges the crime to be a serious violent offense for
6 the purpose of this section: 1) involuntary manslaughter, as
7 provided in Section 30-2-3 NMSA 1978; 2) fourth degree
8 aggravated assault, as provided in Section 30-3-2 NMSA 1978; 3)
9 third degree assault with intent to commit a violent felony, as
10 provided in Section 30-3-3 NMSA 1978; 4) third and fourth
11 degree aggravated stalking, as provided in Section 30-3A-3.1
12 NMSA 1978; 5) second degree kidnapping, as provided in Section
13 30-4-1 NMSA 1978; 6) second degree abandonment of a child, as
14 provided in Section 30-6-1 NMSA 1978; 7) first, second and
15 third degree abuse of a child, as provided in Section 30-6-1
16 NMSA 1978; 8) third degree dangerous use of explosives, as
17 provided in Section 30-7-5 NMSA 1978; 9) third and fourth
18 degree criminal sexual penetration, as provided in Section
19 30-9-11 NMSA 1978; 10) fourth degree criminal sexual contact of
20 a minor, as provided in Section 30-9-13 NMSA 1978; 11) third
21 degree robbery, as provided in Section 30-16-2 NMSA 1978; 12)
22 third degree homicide by vehicle or great bodily injury by
23 vehicle, as provided in Section 66-8-101 NMSA 1978; and 13)
24 battery upon a peace officer, as provided in Section 30-22-24
25 NMSA 1978.

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